

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3233 of 1981

Date of decision: 13-3-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SOLANKI SHANKARBHAI KALABHAI

Versus

PATEL LALLUBHAI RANCHHODBHAI

Appearance:

MR H.M.Pareek for Petitioners

MR AJ PATEL for Respondent No. 2

SERVED for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/03/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

All the three authorities concurrently held that the petitioner was not in possession of the land in dispute on the tillers' day i.e. 1st April, 1957, and as such the order of the authorities dropping the proceedings under section 32G of the Bombay Tenancy and Agricultural Lands Act, 1940 does not call for interference. Proceedings under section 32G of the Act would be maintainable only in case the petitioner tenant was in possession of the land on 1st April, 1957. The Tribunal rightly pointed out that the proceedings were taken under section 32G of the Act and not under section 32(1B) of the Act.

2. The learned counsel for the petitioner contended that the Mamlatdar could have simultaneously initiated proceedings under section 32G and section 32(1B) of the Act. It has next been contended that the Mamlatdar has power to take suo motu proceedings under section 32(1B) of the Act. There is no dispute about this position and the Tribunal itself has held that there is no bar of limitation for suo motu proceedings under section 32(1B) of the Act. It has further been held that it is for the Mamlatdar to start proceedings in exercise of suo motu powers. In view of these observations of the Tribunal, this special civil application filed by the petitioner seems to be ill-advised. Instead of approaching this Court, and praying for interim relief by way of stay of the proceedings under section 32(1B), the petitioner should have reminded the Mamlatdar to initiate suo motu proceedings under section 32(1B). The petitioner in fact has wasted all these years and in case proper course had been adopted, the Mamlatdar would have initiated suo motu proceedings under section 32(1B) of the Act and by this time those proceedings would have been finalised. However, still it is open to the Mamlatdar to initiate suo motu proceedings in this case for which no direction of this court is required.

3. Shri A.J. Patel, the counsel for the respondents contended that even for suo motu proceedings the petitioner has to remind the Mamlatdar. I do not consider it proper to go on this question as this is not the point at issue in this case. However, in view of the concurrent finding of fact by three authorities that the petitioner was not in possession on the tillers' day, the orders passed by the authorities in this case are perfectly legal and justified and does not call for interference.

4. In the result this writ petition fails and the

same is dismissed. Rule discharged. Interim relief granted earlier stands vacated. However, dismissal of this special civil application will not come in the way of the Mamlatdar to initiate suo motu proceedings under section 32(1B) of the Act.

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